

## 21 C.J.S. Courts § 118

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### Courts

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### III. Creation and Constitution; Officers of Courts

#### A. Creation, Organization, and Abolition of Courts

##### 3. Jurisdiction and Transfer of Cases; Judicial Departments and Districts; Divisions of Courts

§ 118. Judicial departments, circuits, and districts

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#### West's Key Number Digest

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**Where authorized to do so, the legislature may create, change, or increase or decrease the number of judicial circuits or districts, but in exercising such power, the legislature must be governed by constitutional requirements.**

The state constitutions usually divide the state into judicial departments, circuits, or districts,<sup>1</sup> or give to the legislature the power to make such a division.<sup>2</sup> Where the constitution expressly or by necessary implication so permits, the legislature may change judicial districts or circuits,<sup>3</sup> may detach and attach counties and districts,<sup>4</sup> and increase<sup>5</sup> or diminish<sup>6</sup> the number thereof from time to time as may be deemed necessary and proper. On the other hand, in the absence of constitutional authorization, the legislature has no power either to create or abolish judicial circuits as established or permitted to be established under the constitution.<sup>7</sup>

In exercising the power to create or change judicial districts, the legislature must be governed by constitutional requirements,<sup>8</sup> such as to population,<sup>9</sup> equality of population,<sup>10</sup> territory,<sup>11</sup> and number<sup>12</sup> of districts; contiguity of counties in the same district;<sup>13</sup> and compactness of geographical form of districts;<sup>14</sup> and the business involved in the districts.<sup>15</sup>

Where the constitution permits this power to be exercised at certain times only, such limitation is binding.<sup>16</sup> Where a discretion is delegated to the legislature in these respects, if it acts within the constitutional restrictions on the exercise of such power,<sup>17</sup> its exercise will not be reviewed by the courts unless it appears that there was a gross abuse of discretion.<sup>18</sup>

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## Footnotes

- 1 Ky.—[Richmond v. Com.](#), 637 S.W.2d 642 (Ky. 1982).
- 2 Ga.—[Cobb County v. Campbell](#), 256 Ga. 519, 350 S.E.2d 466 (1986).
- 3 Ga.—[Cobb County v. Campbell](#), 256 Ga. 519, 350 S.E.2d 466 (1986).
- 4 Ind.—[State v. Monfort](#), 723 N.E.2d 407 (Ind. 2000).
- 5 Okla.—[Ex parte Worley](#), 60 Okla. Crim. 384, 66 P.2d 107 (1937).
- 6 La.—[State ex rel. Garland v. Guillory](#), 184 La. 329, 166 So. 94 (1935).
- 7 Fla.—[State ex rel. Landis v. Bird](#), 120 Fla. 780, 163 So. 248 (1935).
- 8 Fla.—[State ex rel. Landis v. Thompson](#), 120 Fla. 860, 163 So. 270 (1935).
- 9 Ky.—[Willis v. Jonson](#), 279 Ky. 416, 130 S.W.2d 828 (1939).
- 10 Ill.—[People ex rel. Vandeventer v. Rose](#), 203 Ill. 46, 67 N.E. 746 (1903).
- 11 Ark.—[Williams v. Montgomery](#), 179 Ark. 611, 17 S.W.2d 875 (1929).
- 12 Ky.—[Brown v. Moss](#), 126 Ky. 833, 31 Ky. L. Rptr. 1288, 105 S.W. 139 (1907).
- 13 Ill.—[People ex rel. Vandeventer v. Rose](#), 203 Ill. 46, 67 N.E. 746 (1903).
- 14 Ill.—[People ex rel. Vandeventer v. Rose](#), 203 Ill. 46, 67 N.E. 746 (1903).
- 15 Ky.—[Willis v. Jonson](#), 279 Ky. 416, 130 S.W.2d 828 (1939).
- 16 Pa.—[Noecker v. Woods](#), 259 Pa. 160, 102 A. 507 (1917).
- W. Va.—[Howard v. Ferguson](#), 116 W. Va. 362, 180 S.E. 529 (1935).

17 Ky.—[Willis v. Jonson](#), 275 Ky. 538, 121 S.W.2d 904 (1938).

18 Ark.—[Bonner v. Jackson](#), 158 Ark. 526, 251 S.W. 1 (1923).

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